

### REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-28 and 52-59 are currently pending. Claims 1-28, 52-55, and 57-59 have been amended; and Claims 60 and 61 have been added by the present amendment. The changes to the claims are supported by the originally filed specification and do not add new matter.

In the outstanding Office Action, Claims 1-28 and 52-59 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,990,927 to Hendricks et al. (hereinafter “the ‘927 patent”) in view of U.S. Patent No. 5,649,283 to Galler et al. (hereinafter “the ‘283 patent”).<sup>1</sup>

Claim 1 is directed to a data sending receiving system, comprising: (1) first storage means for storing data including a plurality of content; (2) first sending receiving means for sending and receiving data; (3) retrieval means for retrieving the data stored in the first storage means; (4) first control means for controlling the first sending receiving means to receive request information for content from the receiving apparatus, wherein the retrieval means retrieves the data stored in the first storage means based on the request information, and the first sending receiving means sends the data retrieved by the retrieval means; (5) a second sending receiving means for sending information and receiving data; (6) a second storage means for storing data; and (7) a second control means for controlling the second sending receiving means to send the request information to the sending apparatus based on user input and to receive the data retrieved by the retrieval means, for checking whether the received data sent from the sending apparatus includes new content, and for controlling the second storage means to store only the new content included in the received data

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<sup>1</sup> Although not explicitly stated, Applicant notes that Claims 58 and 59 were included in the rejection under 35 U.S.C. § 103(a) and do not appear to be subject to a restriction. Accordingly, Applicant has assumed for the purpose of this response that Claims 58 and 59 are no longer withdrawn claims due to a restriction requirement.

automatically based on the results of the checking. Further, Claim 1 clarifies that the first sending receiving means and the second sending receiving means are connected to an electronic communication network. The changes to Claim 1 are supported by the originally filed specification and do not add new matter.

Regarding the rejection of Claim 1 under 35 U.S.C. §103, the Office Action asserts that the '927 patent discloses everything in Claim 1 with the exception of "... verifying that data is new content," and relies on the '283 patent to remedy that deficiency.<sup>2</sup>

The '927 patent is directed to a set-top terminal for cable television delivery systems. As shown in Figure 1, the '927 patent discloses a network controller 214, an operation center 202, uplink sites 204, and a set-top terminal 220 operated by a remote 900. Further, the '927 patent discloses that the set-top terminal supports menu generation, picture-on-picture displays, program catalog services, interactive services, telephone caller identification, digital audio reception, VCR control, HDTV reception, and satellite system interoperability.

However, as admitted in the Office Action, the '927 patent fails to disclose verifying that data is new content. In particular, Applicant respectfully submits that the '927 patent fail to disclose a second control means for controlling the second sending receiving means to receive the data retrieved by the retrieval means, for checking whether the received data sent from the sending apparatus includes new content, and for controlling the second storage means to store only the new content included in the received data automatically based on the results of the checking, as recited in amended Claim 1.

The '283 patent is directed to a method to verify that a cable television consumer is receiving and displaying a correct program on the television set. The '283 patent discloses that the '283 invention is important in the context of pay-per-view events because the consumer has paid for the program and it is important that the consumer is receiving the

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<sup>2</sup> See page 2 of the outstanding Office Action.

program. As shown in Figure 3, the '283 patent discloses that if the user orders a particular program, the system transmits an "initial video content of the program" to the user so that when the program starts, the controller at the consumer's set-top box can use a frame-grabber circuit to grab an initial portion of the broadcast program and to analyze the stored portion with respect to the initial video content. Further, the '283 patent discloses that if the stored portion is not the same as the initial video content, the controller of the set-top terminal ***transmits an error message*** to the system computer. Further, the '283 patent discloses a variation of this idea in that the program can be periodically sampled and compared to stored, expected video content at any time during the presentation of the program. In particular, as noted in the outstanding Office Action, column 2, lines 4-6 of the '283 patent is part of a discussion of the Summary of the Invention of the '283 patent and discloses that the system computer transmits to the controller in the set-top box new video content defining what the controller should have received at a particular time. The '283 patent discloses that if the new video content, which is in the form of a captured frame, is not the same as the stored frame (i.e., the frame that was captured at a particular time), ***the controller once again transmits an error message to the system computer***. Thus, in all cases, the '283 patent discloses that if the received content that a set-top box is receiving is not the same as a stored portion previously sent to the set-top box to be compared to the received content, ***an error message is sent back to the system computer***.

However, Applicant respectfully submits that the '283 patent fails to disclose a second control means for controlling a second sending receiving means and for checking whether the received data sent from the sending apparatus includes new content, and controlling the second storage means to store only the new content included in the received data automatically based on the results of the checking, as recited in amended Claim 1.

Rather, as discussed above, the '283 patent merely discloses that if a user is not receiving the

appropriate content, ***an error message is sent by the set-top box back to the system computer.*** Applicant respectfully submits that this is very different from the claimed invention in which only new content included in received data is controlled into storage automatically based on the results of checking whether the received data sent from this receiving apparatus includes new content, as recited in amended Claim 1. The '283 patent does not disclose a system in which only the new content included in the received data is stored after it is determined that the data includes new content. Rather, the '283 patent discloses that an error message is sent if the incoming data does not match the stored data. It is unclear to Applicant how sending an error message can in any way be equated with storing only new content in receive data.

Thus, no matter how the teachings of the '927 and '283 patents are combined, the combination does not teach or suggest the second control means recited in amended Claim 1, including controlling the second storage means to store only the new content included in the received data automatically based on results of checking whether the received data sent from the sending apparatus includes new content, as recited in Claim 1. Accordingly, Applicant respectfully submits that the rejection of Claim 1 is rendered moot by the present amendment to Claim 1.

Independent Claim 18 recites limitations analogous to the limitations recited in Claim 1. Moreover, Claim 18 has been amended in a manner analogous to the amendment to Claim 1. Accordingly, for reasons analogous to the reasons stated above for the patentability of Claim 1, Applicant respectfully submits that the rejection of Claim 18 is rendered moot by the present amendment to that claim.

Independent Claims 58 and 59 recite limitations analogous to the limitations recited in Claim 1. Accordingly, for reasons analogous to the reasons stated above for the patentability

of Claim 1, Applicant respectfully submits that the rejections of Claims 58 and 59 are rendered moot by the present amendment.

Further, Applicant respectfully submits that the Office Action has failed to specifically address many of the dependent claims recited in the present application. For example, Claim 3 recites appending supplementary data indicating that the data is newly stored in the first storage means. Further, Claim 5 recites generating request information from the user inclusive of data specifying an intention of the user to make payment. Further, Claim 8 recites that the first sending means sends data newly stored in the first receiving means with the same quality as a data quality and sending other data stored in the first storage means when the data specified in the intention of the user to make payments for the request information from the user indicates that the user is willing to make the payments. Further, Claim 9 recites sending data of a data quality lower than a data quality and sending other data stored in the first storage means when the data specifying the intention of the user to make payments indicates that the user is not willing to make the payments. Further, Claim 10 recites genre designation information. Applicant respectfully submits that the combined teachings of the '927 and '283 patents fail to disclose these limitations. Further, Applicant respectfully submits that the Office Action has failed to specifically address how the '927 and '283 patents disclose these limitations.

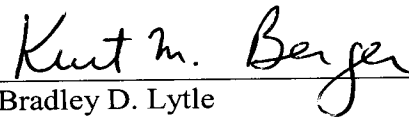
The present amendment also sets forth new Claims 60 and 61 for examination on the merits. New Claims 60 and 61 recite limitations analogous to the limitations recited in Claims 1 and 18, respectively. No new matter has been added.

Thus, it is respectfully submitted that independent Claims 1, 18, and 58-61 (and all associated dependent claims) patentably define over any proper combination of the '927 and '283 patents.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds of rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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